

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

WILLIAM J. MOYLE,)	CASE NO. _____
)	
Plaintiff,)	
)	
vs.)	COMPLAINT
)	(Vehicular Negligence and
CONCRETE INDUSTRIES, INC. and)	Request for Trial by Jury)
ROGER T. CLARKE,)	
)	
Defendants.)	

For his claim against Defendants Concrete Industries, Inc. and Roger T. Clarke, Plaintiff William J. Moyle alleges:

1. Plaintiff William J. Moyle ("Mr. Moyle") is a citizen and resident of Missoula, Montana.
2. Defendant Roger T. Clarke ("Mr. Clarke") is a citizen and resident of the State of Nebraska.
3. Defendant Concrete Industries, Inc. ("CI"), is a citizen and resident of the State of Nebraska because it is a Nebraska corporation with its principal place of business in Lincoln, Douglas County, Nebraska.
4. At all times relevant herein, Mr. Clarke was an agent, servant, employee, or apparent or ostensible agent of CI, acting in the course and scope of his employment or other business relationship with CI. The negligent acts and/or omissions of Mr. Clarke are imputed to CI as a matter of law, and CI is therefore vicariously liable for all such negligent acts and/or omissions.
5. This Court has jurisdiction under 28 U.S.C. §1332 because Mr. Moyle is a citizen and resident of the State of Montana, and both Mr. Clarke and CI are citizens and residents of the State of Nebraska, and the amount in controversy exceeds \$75,000 exclusive of interest and costs.
6. Venue lies in this Court as the negligent acts and omissions complained of occurred in Cass County, Nebraska.
7. On October 31, 2012, at approximately 3:06 p.m., Mr. Moyle was driving a 2000 Ford F450 northbound on U.S. Highway 75, in Cass County, approaching the intersection of the highway with Highway 34.

8. On October 31, 2012, at approximately 3:06 p.m., Mr. Clarke was operating a 1999 Mack Truck northbound on U.S. Highway 75, in Cass County, approaching the intersection with Highway 34. The Mack truck was ahead of the Ford driven by Mr. Moyle.

9. Mr. Clarke drove the Mack truck into a marked left turn lane ahead of Mr. Moyle, and Mr. Moyle proceeded north in the through traffic lane.

10. Without warning, Mr. Clarke made a right turn across the northbound lane of traffic, driving the Mack truck into the Ford driven by Mr. Moyle, and forcing the Ford off the highway and onto the shoulder, where the Ford, after being struck by the Mack truck, overturned and collided with a stop sign and light pole.

11. Mr. Clarke owed a duty to Mr. Moyle to use reasonable care to prevent a collision or injury from the operation of a motor vehicle, considering the conditions and circumstances existing on U.S. Highway 75 on October 31, 2012.

12. Mr. Clarke breached his duty to use reasonable care in the operation of the Mack truck he was driving because he negligently:

- a. Failed to yield the right of way;
- b. Failed to keep a careful lookout;
- c. Engaged in a wide right turn across lanes of traffic;
- c. Failed to warn of his wide right turn, and

was otherwise negligent in a manner not presently known to Plaintiffs.

13. As a direct and proximate result of the above-described negligence of Defendants, William J. Moyle suffered severe physical and/or emotional injuries, as well as past and future medical expenses. The nature and extent of William J. Moyle's injuries are not fully known.

WHEREFORE, Plaintiff William J. Moyle prays for judgment against Defendants Concrete Industries, Inc. and Roger T. Clarke, in an amount in excess of \$75,000; for the costs he incurs in this litigation, and for such other or further relief as may be just and proper under the circumstances.

REQUEST FOR JURY TRIAL

Plaintiffs hereby request that trial by jury of the foregoing action should be held in Omaha, Douglas County, Nebraska, and that the case be calendared accordingly.

DATED this 19th day of December, 2012.

WILLIAM J. MOYLE, Plaintiff,

By s/Patrick Cullan
Patrick Cullan #23576
Joseph Cullan #22145
Cullan & Cullan, LLC
1113 Harney St.
Omaha, NE 68102
(402) 397-7600 / (402) 397-3816 (f)
p.cullan@cullanlaw.com
j.cullan@cullanlaw.com
ATTORNEYS FOR PLAINTIFFS